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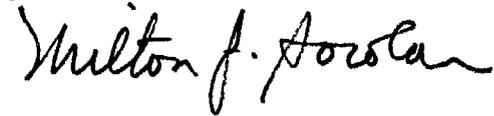


The large number of bills reported out of committee each year makes it impossible for GAO to provide worthwhile assistance on all of them. Because of this, and because the scope of the rule goes well beyond paperwork concerns, we decided the best way GAO could assist the Senate and its committees would be to develop guideline booklets setting out suggested questions, data sources, and ways of compiling and analyzing the data required for the rule's impact statements.

This is the second of two such guideline booklets. It is designed to assist the committees and their staffs in analyzing the paperwork and privacy implications of a bill. A separate booklet addressing ways to deal with the economic impact requirements of the rule was issued earlier. Although the major purpose of this booklet is to assist in preparing the Rule 26.11(b) impact statements, we believe it can be used for other important purposes, such as preparing legislation, developing questions for hearings, and drafting rules and regulations. Also, agency managers may find it useful in developing procedures for assessing paperwork burdens of proposed legislation as required by the Paperwork Reduction Act of 1980 (P.L. 96-511).

This booklet is being issued as an exposure draft to allow for later revision and improvement, based on the experience of those who use it. In the meantime, we hope it will prove useful to the Senate and its committees in their efforts to control the growth of unnecessary Federal paperwork burdens and unwarranted intrusion into the privacy of our citizens.

We welcome comments and suggestions for improvement. Please send any comments or observations to Mr. William J. Anderson, Director, General Government Division, Room 3866, U.S. General Accounting Office, 441 G Street, N.W., Washington, D.C. 20548.

A handwritten signature in black ink that reads "Milton J. Aorolan". The signature is written in a cursive, flowing style.

Acting Comptroller General
of the United States

Foreword

The idea for this booklet came out of the work of the Commission on Federal Paperwork, and much of its content is based on that work. The Commission, in carrying out its charter to develop recommendations to the Congress and the President on ways to cut Federal paperwork, identified poorly written legislation as a root cause of much unnecessary and frequently unexpected paperwork. The Commission recommended that the Congress develop a mechanism to identify the potential paperwork impacts of proposed legislation before it became law.

The Senate, at least partially in response to the Commission's recommendation, adopted Rule 26.11(b) (formerly numbered 29.5), requiring that all committee reports on bills of a public nature (except Appropriations Committee reports) contain an economic, privacy, and paperwork impact evaluation of the bill. The intent was to provide legislators with information about the potential impact of the bill so that informed decisions may be made before it becomes law and produces unwanted consequences.

Senators Chiles and Danforth of the Committee on Governmental Affairs requested GAO's assistance in developing a process to aid Senate committees in developing the impact analyses required by the rule. Many other Senators and committee staffs have also requested our assistance in complying with the rule.

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Glossary

Burden	The estimated time spent annually by respondents in completing reporting requirements. Burden estimates are to be reasonable reflections of the time spent by individuals, businesses, and organizations to gather and compile data as well as the time needed to complete a reporting requirement.
Clearance	Approval of a reporting requirement.
Central clearance office	The office which establishes the policies, requirements, and procedures for reviewing and approving reporting and recordkeeping requirements proposed by agencies and departments. The Paperwork Reduction Act of 1980 created the <i>Office of Information and Regulatory Affairs</i> in the Office of Management and Budget for this purpose.
Clearance officer	Individual at the agency, department, or central clearance office who reviews and approves proposed reporting requirements. Clearance officers evaluate whether the information to be collected is necessary for the performance of an agency's functions and whether the information required is duplicative or excessively burdensome on those who must provide it.
Clearance process	Centralized process established under the Federal Reports Act of 1942 and strengthened by the Paperwork Reduction Act of 1980 for reviewing and approving reporting requirements used to collect information from 10 or more persons outside the Federal Government.
Duplication	The degree of likeness among reporting requirements. Duplication involves three categories of likeness and severity.

Generic duplication—the collection of information relating to the same general subject category; for example, financial data.

Similar duplication—questions related to a particular subject but not identical.

Identical duplication—questions which are precisely the same.

Family of forms

Consists of a basic form and related forms, such as supplements, exhibits, screening inquiries, and editions printed in foreign languages.

Paperwork

Recordkeeping, and preparing and filing or reports by businesses, individuals, and organizations regarding Federal programs and regulations.

Practical utility

An agency's ability to use and timely process the information it collects.

Practical utility review

Process of verifying the actual use made of information collected.

Reporting requirements

All types of reporting and recordkeeping requirements, such as applications, statistical surveys, program evaluations, and management reports.

Respondents

Those from whom information is collected, such as individuals, households, businesses, and State and local government agencies.

Controlling the growth of Federal regulatory and paperwork burdens imposed on the public and maintaining the public's legitimate right to privacy is a national concern. The basis for this concern is easily illustrated. The Office of Management and Budget estimated that, in fiscal year 1980, the Federal Government levied requirements for reporting and recordkeeping on the public that consumed some 1,276 million hours. The Privacy Protection Study Commission reported that "The Commission's findings clearly reveal an overwhelming imbalance in the recordkeeping relationship between an individual and an organization . . .".

In the 95th Congress, the Senate adopted Rule 29.5 as a device to assist in controlling the growth of Federal regulatory and paperwork burdens and privacy intrusions at their source—proposed legislation. In November 1979, the Senate revised its Standing Rules, renumbering Rule 29.5 to 26.11(b). The rule requires that committee reports contain an assessment of a bill's potential effects in three areas:

- Economic impact.
- Paperwork burden impact.
- Privacy implications.

The ultimate goal of the rule is to reduce or eliminate unnecessary or unintended burdens on the public by providing advance notice of a bill's potential economic, paperwork, and privacy implications.

The purpose of this booklet is to assist the Senate and its committees in developing, analyzing, and presenting the information necessary to make the paperwork and privacy assessments required by the rule. The methodology and procedures can be equally helpful to executive branch agencies in performing paperwork assessments of proposed regulations and information collection requirements now required by the Paperwork Reduction Act of 1980, the Regulatory Flexibility Act, and Executive Order 12291.

A separate booklet dealing with the economic impact assessments was issued in 1980. It is titled "A Technical Guide To Assessing and Preparing Economic Impact Analysis of Regulatory Legislation" (PAD-81-3).

This booklet uses a checklist approach and is designed to lead the user through the steps necessary to assess the paperwork and privacy impacts of proposed legislation. Many of the techniques and approaches suggested in this booklet resulted from GAO's work for Senator Chiles in reviewing hundreds of impact statements prepared by Senate committees during the 96th Congress. Additional credit has to go to the Office of Technology Assessment, whose publication "Anticipating the Impacts of Legislation—Implementing Senate Rule 29.5 Requiring Regulatory Impact Statements" (June 1, 1979) was extremely helpful.

The remainder of this chapter presents the text of Senate Rule 26.11(b) and a brief discussion of its strengths and limitations. Chapter 2 describes how to use this booklet; outlines a general approach for developing the paperwork and privacy impact assessments required by the rule, including some thoughts on who is best suited to develop the data and when it should be done; and defines what is meant by the terms paperwork, paperwork burden, and privacy implications.

Chapters 3 and 4 provide guidelines and a checklist of questions to assist the user in acquiring and summarizing the data needed. Chapter 5 contains a suggested format for presenting the impact analyses and a “do’s and don’ts” checklist. Appendix I identifies some major information sources, and appendix II contains a synopsis of recent legislative and executive agency initiatives to control paperwork.

Senate Rule 26.11(b) Strengths and Limitations

Rule 26.11 states:

“(a) The report accompanying each bill or joint resolution of a public character reported by any committee . . . shall contain . . . ”

“(b) Each such report (except those by the Committee on Appropriations) shall also contain (1) an evaluation, made by such committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution. The evaluation shall include (A) an estimate of the number of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (B) a determination of the economic impact of such regulations on the individuals, consumers, and businesses affected, (C) a determination of the impact on the personal privacy of the individuals affected, and (D) a determination of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution; or

“(2) in lieu of such evaluation, a statement of the reasons why compliance by the committee with the requirements of clause (1) is impracticable.

“(c) It shall not be in order in the Senate to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of subparagraph . . . (b) on the objection of any Senator.”

The rule has two fundamental strengths, although both are subject to timely and conscientious implementation of its provisions. First, it provides the opportunity for careful consideration of a bill's effects early in the legislative process. To the extent that its provisions are considered by the committees and their staffs while legislation is being drafted, hearings held and comments received, it can serve to identify and highlight potential problem areas before positions harden and a final version of the bill is reported.

Second, the rule provides a framework for disciplined analysis of the key elements of a given bill which may result in excessive paperwork requirements or unwarranted intrusions on personal privacy.

The principal limitations of Senate Rule 26.11(b) are the mirror-images of its strengths. First, because the rule's provisions come to bear during the legislative process—normally well before in-depth work on developing implementing regulations has begun—many of a given bill's effects or impacts simply cannot be measured at the time a bill is brought to the Senate floor. In many cases, accurate measurement of impacts—especially economic impacts—is not possible even long after regulatory measures have been implemented.

Second, even though the rule provides a framework for analysis, the give and take nature of the legislative process is such that supporters of a given bill will tend to minimize or

understate its impact where such impact might adversely affect the chances for the legislation being passed. On the other hand, individuals opposed to a bill will tend to overstate its impact to try to defeat the proposal. Somehow, the committees must strike a balance.

Despite the fact that the rule has limitations, we believe it can serve an extremely valuable function to assist the legislative committees as they hold hearings and obtain testimony, particularly from the directly affected parties and from the agencies which would have operating responsibility. Considering the paperwork and privacy implications in the early stages of legislative development provides the best opportunity to design the least burdensome paperwork requirements and minimize privacy intrusions. We believe the requirements of the rule can be especially useful in this respect and trust this booklet will aid the committees in complying with them in a constructive way.

How to Use This Booklet and What to Expect From It

The steps necessary to analyze a bill's paperwork and privacy implications can be readily summarized as follows:

- (1) Identify the bills' provisions that contain paperwork implications—both direct and indirect.
- (2) Identify the respondent group affected and estimate the number of potential respondents.
- (3) Estimate the amount of reporting/recordkeeping required and its costs to the potential respondents and the Government.
- (4) Determine if the bill will require the collection or disclosure of information on individuals.
- (5) Determine if the collection or disclosure of data on individuals constitutes an unwarranted invasion of personal privacy.
- (6) Formulate the impact statement.
- (7) Present the impact statement in a manner useful to the committees.

Any analyst who undertakes the task of actually preparing the Rule 26.11(b) impact assessments will, however, soon find the job a formidable one. Many factors contribute to the difficulty; although they do not negate the benefits of the process, they do make it important to approach the task with reasonable expectations. Our experience indicates that it is unrealistic to expect to develop precise quantitative measures of paperwork burdens or, in some cases, even to accurately determine the number of respondents affected.

On the other hand, we have found that a careful analysis of a bill can

- identify vague and open-ended language in legislation which can contribute to unnecessary reporting and recordkeeping,
- identify those who will be required to keep records and make reports to the Federal Government,
- provide a rough estimate of the numbers of respondents affected and their costs to provide information,
- raise questions about the need for the collection of information, and
- identify potential privacy implications.

In short, careful analysis of a bill under the Rule 26.11(b) provisions can make a substantial contribution to the legislative process.

Who Should Conduct the Impact Analysis and When?

In many cases, the committee staffs do not have the time to perform all the data gathering and analytical work necessary to assess the paperwork and privacy implications of a bill. The agency or agencies which would administer the proposed legislation should be able to assist in developing the needed information. Consequently, their input is extremely desirable. However, depending on whether the agency supports or opposes the bill, it may understate or overstate paperwork and privacy implications. Committees should contact some poten-

tial respondents to obtain their analyses as a check on the validity of Federal agencies' evaluations. Since respondents, too, may be inclined to overstate or understate the impact of the bill, both agencies and respondents should be asked to document the basis for their estimates.

For maximum effectiveness, the impact evaluations should be available to the committees early in the legislative process to enable them to consider alternative ways to achieve the desired objectives with minimum paperwork requirements and privacy impositions. Consequently, agencies and respondents should be requested to comment on a bill's paperwork and privacy implications as early as possible.

What is Paperwork?

Paperwork is the keeping of records, and the preparing and filing of reports by businesses, individuals, and organizations in response to a Federal program or regulation. However, paperwork should not be narrowly interpreted as meaning just simple pieces of paper.

To a considerable extent, the term paperwork now refers to the entire process of capturing and transmitting information, whether or not actual pieces of paper are involved. For example, in cases where respondents have sophisticated automatic data processing equipment, little actual paperwork may be in-

involved. Federal recordkeeping requirements usually do not require the transmission of information to a Federal agency. Nevertheless, both types of Federal requirements impose substantial burdens and costs on the affected respondents.

To assist in identifying legislative provisions which require paperwork, the following five categories are commonly used:

- tax recordkeeping and reports,
- applications,
- regulatory and financial reports,
- program evaluation and research reports, and
- statistical reports.

The uses made of these types of information generally fall into three broad areas.

1. Policymaking

Examples are statistical surveys of population, employment, housing, etc.

2. Managerial decisionmaking

Examples are program evaluations, management reports, and planning documents.

3. Compliance

Examples are applications, recordkeeping requirements, and tax information.

As the categories of records, forms, and reports identified above and their uses indicate, paperwork can be created by all types of legislation. Paperwork is not limited to legislation which is clearly regulatory in nature. For example, tax collection is not generally felt to be a regulatory function of the Government, but over 60 percent of the Federal paperwork burden on the public comes from paperwork requirements imposed by the Internal Revenue Service. Although the different types of information can serve multiple purposes, identification of the intended use of information can be an aid in assessing the nature and extent of the paperwork required and who is likely to be affected by it.

The term “paperwork” and especially “Federal paperwork” has negative connotations. However, it must be recognized that the Federal Government—or, for that matter, any organization—needs information and, therefore, “paperwork” to adequately manage its activities and accomplish its objectives. Paperwork cannot be eliminated, but it can and should be reduced to only that needed to efficiently, effectively, and economically accomplish the goals of the organization.

What is Paperwork Burden?

Paperwork burden is the time and costs spent: (1) to read and understand the laws, regulations, instructions, and forms related to the required collection and reporting of information,

(2) to collect the required data and information, (3) to analyze and summarize the data and information, (4) to report the information, and (5) to maintain records whether or not information is transmitted to the Federal Government.

Traditionally, the Federal Government has expressed burden in hours. In 1977, the Commission on Federal Paperwork developed an estimate of \$15 as the financial equivalent of an hour of burden. Absent the availability of a more precise estimate, this value can be used as an acceptable financial cost of an hour of paperwork burden.

Clearly, only additional time/costs that would not otherwise be incurred should be counted. In certain circumstances, such as a reauthorization action, the impact statement should address the current paperwork burdens and areas where the burden may be excessive. Committees can then decide whether to revise some of the legislative or regulatory requirements to lessen the burden.

The following items are illustrative of the components of paperwork burden.

- Reading and understanding requirements.
- Designing, developing, and installing information systems for both the Government and the public (both one-time and recurring).
- Collecting, processing, analyzing, storing, retrieving, disseminating, and disposing of data.

- Hiring consultants, lawyers, accountants, or other professional to prepare reports (for both agencies and the public).
- Training personnel.
- Purchasing supplies and materials.

What Is Meant By Personal Privacy Implications

Individuals are increasingly concerned that their personal privacy can and is being invaded because of the proliferation of information requests. Information is collected from individuals by Federal, State, and local agencies; businesses; and educational institutions. Agencies collect data for purposes such as taxes, census, assistance programs, training programs, and law enforcement activities. Businesses collect data for credit, insurance, medical care, banking, and employment.

To protect the privacy of individuals while meeting the legitimate needs of Government and society for information, numerous laws have been passed by Federal and State Governments to regulate the collection, use, and disclosure of data. Federal laws, to name only a few, include the Privacy Act, the Freedom of Information Act, and the Fair Credit Reporting Act.

- **Privacy Act.** Enacted in 1974, this law is the Congress' first attempt to incorporate comprehensive privacy protections into the records management practices of the Federal

Government. The act regulates the collection, maintenance, use, and disclosure of personal information in Federal agencies. Except for certain Government contractors, it does not apply to the private sector.

- **Freedom of Information Act.** Enacted in 1966 and amended in 1974, this act requires the disclosure to any person, subject to certain exceptions, of information maintained by Federal agencies. One of the exceptions is disclosures which would constitute an unwarranted invasion of personal privacy.
- **Fair Credit Reporting Act.** Enacted in 1970, this act applies only to consumer-reporting organizations, i.e., entities that supply credit history and individual background information to credit grantors, insurers, employers, and others. The intent of the act is to give a consumer access to information pertaining to him/her in the records of a consumer-reporting organization and enable him/her to learn when a consumer report adversely affects a decision about him/her.

The evaluation required by Senate Rule 26.11(b) is to ensure that the Federal Government collects only that information about an individual which is essential for program purposes and that the individual be able to know what is being done with the information.

How to Use This Booklet

The remaining chapters of this booklet are designed to lead the user through the steps necessary to prepare a Rule 26.11(b) impact analysis for paperwork and privacy. Going through these steps in the order indicated for each section of a bill seems to produce the best results, although some steps will overlap. The analyst should keep in mind that frequently there will not be clear-cut answers for all the checklist questions. The inability to develop solid data on a substantial portion of the questions may in itself be the most significant result of the process and can tend to indicate the need to reassess the ways and means of accomplishing the intent of a given bill.

Estimating Paperwork Impacts

This chapter presents guidelines and checklists for carrying out three critical steps in preparing a Rule 26.11(b) impact analysis. The steps are:

- Identifying legislative provisions which will create paperwork.
- Identifying and estimating the number of respondents who will be affected.
- Estimating the amount of paperwork burden which will be imposed.

In carrying out these steps, the analyst will have to apply initiative, imagination, and ingenuity. However, he or she may take comfort—and more importantly, obtain useful data—by keeping in mind the old adage that “the wheel has already been invented.” The fact is that essentially all segments of our society already provide information to the Federal Government. Individuals, small and large businesses, State and local governments, lobbyists, churches, young and old, rich and poor—all are affected by Federal programs, and all, in one way or another, provide information or paperwork to some Federal agency.

What this means to the analyst is that, whatever legislative provisions are identified which create paperwork, there is

almost certain to be some type of paperwork requirement already in existence affecting a given respondent group. Thus, in the vast majority of cases, some data relevant to the steps discussed in this chapter will be readily available.

“From whom,” asks the eager analyst, “is it readily available and will they give it to me?” The answers are easy. For any legislative provision containing a paperwork requirement, there are two key sources of data for developing the Rule 26.11(b) impact analysis, both of which are in the business of controlling paperwork. They are

- the forms clearance staff in the agency which will administer the legislation, and
- OMB’s Office of Information and Regulatory Affairs.

Each Federal agency has a staff charged with responsibility for controlling and managing the agency’s paperwork requirements. This staff can provide information on existing paperwork requirements—both in terms of respondent groups and paperwork burden estimates—which can be extremely useful in preparing a paperwork impact assessment.

OMB is the Federal Government’s “central clearance office” for paperwork requirements imposed by both executive agencies and independent regulatory agencies.¹ Simply stated,

¹From 1973 until April 1, 1981, the Federal Reports Act gave GAO the responsibility for “clearing” the independent regulatory agencies’ proposed paperwork requirements. However, the Paperwork Reduction Act of 1980 centralized all clearance authority in OMB.

what this means is that most agencies submit their proposals for collecting information to OMB for review and “clearance” before they can be used. OMB administers the basic policy document for Federal paperwork control, the Paperwork Reduction Act of 1980. To assist in carrying out this responsibility, OMB has developed an automated management information system which contains data about approved paperwork requirements.

For the analyst faced with the task of preparing a Rule 26.11(b) statement, the OMB management information system can provide a wealth of data. OMB staff can also assist in identifying knowledgeable contacts, both within the agencies and with respondent groups.

To illustrate how to use these resources, assume that the analyst has completed step 1 and therefore has identified a proposed legislative provision which would require reporting on some aspect of, say, nuclear power plant operations. The Nuclear Regulatory Commission (NRC) is the agency which would administer such a provision. In light of the two remaining steps outlined above, the analyst needs to know:

1. How many nuclear power plants would be affected?
2. What paperwork burdens will be imposed?

A clear-cut answer to the first question is readily obtainable from either NRC or from OMB’s staff. Contacting both would serve to verify the answer. Since operators of nuclear power

plants already provide a great deal of information to the Federal Government, determining the number of plants affected by a new legislative proposal is relatively easy.

The answer to the second question will be somewhat more difficult. Because operators of nuclear power plants already provide a great deal of information to the Federal Government, and because each requirement has a paperwork burden estimate related to it, comparing the proposed new requirement with similar ones already in existence can often yield a reasonably good estimate of the new paperwork burden. This comparison process can also help to ensure that new requirements do not duplicate or overlap information already available.

The “comparison principle” process described will not produce precise results. It seldom will serve to complete the analysis but usually will serve to get it started. Our experience indicates that in most cases, comparing the proposed new legislative paperwork requirement with existing ones will yield sufficient data to determine whether or not substantial incremental paperwork requirements will result. Obtaining input from potential respondents can then provide greater specificity on the amount of increased burden.

- Two key points to keep in mind are that
- some data is almost certain to be available as a basis for comparison with the proposed paperwork requirement, and

- data can be obtained without great difficulty.

Identifying Legislative Provisions That Create Paperwork—Guidelines and Checklist

Various types of legislative provisions create paperwork burdens. Some are explicit and some are implicit or hidden. Explicit paperwork burdens are easiest to identify as they are specifically stated in the proposed legislation. They prescribe exactly what information is required, in what format, for what time frame, from whom, and for what purposes. Because of their specificity, they may be the easiest to assess.

An example of an explicit paperwork burden can be illustrated by using the Truth in Lending Act. Certain provisions of that act require that a creditor must disclose to a borrower such specific information as the cash price of the property or service, down payments, all other charges, total amount to be financed, and the annual percentage rate. This information is required to be provided to the borrower before the credit is extended.

This type of language in legislation is almost impossible to miss as having paperwork implications. Such specificity is a large bonus to the analyst in attempting to measure the paperwork impact.

The most difficult to identify and quantify are the implicit or hidden paperwork burdens. To illustrate, assume that legislation for a grant program requires a Federal agency to obtain assurances from the States that Federal funds provided are

used in compliance with certain laws and regulations. However, the Federal agency may not accept a simple certification of compliance from the States. Frequently, the States are required to provide documentation to show compliance. In many such cases, the States simply channel funds to local governments which actually provide the services to recipients. Therefore, to obtain the data necessary to demonstrate compliance, the local governments must collect data from the individual program recipients, summarize it, and provide it to the States. Each State must then summarize the data provided by all the local governments into the proper format and provide it to the Federal agency to support that it is in compliance with the applicable laws.

Thus, what initially appears to be a simple assurance requirement grows into a substantial paperwork, recordkeeping, and reporting burden on a large number of respondents—State governments, local governments, and individual program recipients.

Many unintended paperwork burdens result from the implicit burdens described above. The major problem in these cases is that it is extremely difficult to quantify these paperwork burdens. The analyst should attempt to identify implicit paperwork burdens so they can be brought to the attention of the committee.

The following checklist should be used to identify the more significant types of legislative provisions that can create paperwork.

Checklist Legislative Provisions That Create Paperwork

The first step in estimating paperwork costs is to identify the provisions of the bill which require paperwork. The best way to perform this step is section-by-section analysis of the bill.

Will the bill require:

	<i>Yes</i>	<i>No</i>		_____	_____
1. Registration with a Government agency, office, commission, etc.?	_____	_____	8. Federal agency reports from the public ("public-use" reports)?	_____	_____
2. Surveys?	_____	_____	9. Certifications and assurances?	_____	_____
3. Eligibility?	_____	_____	10. Statistical formulas to be used to allocate funding, benefits, services, and/or assistance?	_____	_____
4. Application to a Government agency or agencies?	_____	_____	11. Government publications?	_____	_____
5. Plans in any form, such as for funding or compliance?	_____	_____	12. Public disclosure requirements?	_____	_____
6. The agency to collect "such information as may be deemed necessary to enforce . . . ?"	_____	_____	13. Recordkeeping and/or reports for financial accountability?	_____	_____
7. Administering agencies to promulgate regulations to accomplish objectives?	_____	_____	14. Federal agency reports to the Congress?	_____	_____
			15. Reports from one agency to another (inter-agency reports)?	_____	_____
			16. Impact statements of any type?	_____	_____
			17. Reporting from one non-Government source to another?	_____	_____

- 18. Status, program results, or evaluation reports? ___ ___
- 19. Recordkeeping, whether or not information physically flows to the Government? ___ ___
- 20. Setting standards? ___ ___
- 21. Government agencies to maintain records and/or submit reports? ___ ___

Having completed this checklist, the analyst should then answer the following questions for each recorded "yes."

- 1. Why will the information be collected?
- 2. Will the information be used?
- 3. Who is going to use it and for what purpose?
- 4. Is the information already collected by the same agency or by any other Government agency?
- 5. Are the requirements clear, concise, and easily understood?
- 6. Are there any requirements that appear vague and could potentially cause interpretation problems?
- 7. Are there any requirements that could potentially create unintended paperwork burdens? Are these significant?
- 8. How important is the collection of information to accomplishing the bill's objectives?

- 9. What would be lost if this information is not collected?
- 10. Are there alternative methods or procedures which could be used to obtain necessary information?

These are probably the most important questions the analyst can ask. First, the answers to them will provide insight on the basic reasons for collecting the information and serve to identify areas or issues which need further examination. Second, they aid in identifying paperwork requirements which could be modified or eliminated. Finally, they serve as a foundation for identifying and estimating the number of respondents and for estimating the paperwork burden of the bill.

Identifying and Estimating Number of Respondents – Guidelines and Checklist

The next step in the impact analysis is identifying the respondents and, to the extent possible, how many there are. Using the information from the first checklist, the analyst can identify the types of respondents that may be affected by the bill's paperwork requirements. A list of types of respondents is provided in the next checklist. These groups are very broad, have many subgroups, and may overlap, but the checklist provides a starting point to specifically identify the respondent group that the paperwork requirements affect.

The respondent list should be refined with as much precision as possible to identify the subgroup within a given respondent group that most likely will have to respond to the paperwork requirements.

Statistics are available from Government agencies, public and private institutions, trade associations, professional associations, and businesses which can provide the analyst with some estimate of the number of potential respondents. The analyst should, if possible, contact these sources to obtain data on the estimated number of potential respondents. Often these groups will provide names, addresses, and telephone numbers of typical respondents so the analyst may contact them directly. In other cases, associations prefer to survey their members to provide input.

We have found that a precise quantification of the number of respondents affected is neither feasible nor necessary. The objective should be to identify the types of respondents involved and develop a reasonable estimate of how many will be affected.

An example of an actual case may serve to illustrate how to apply the "comparison principle" discussed earlier in identifying and estimating the number of respondents affected by proposed legislation. This case also illustrates that, although the analytical process frequently does not produce precise quantification of the number of respondents, it can produce useful information for committee consideration.

We were asked to conduct a paperwork analysis of S. 2160, 96th Congress—a lobbying disclosure bill. A provision of the bill would have required the collection of information from organizations which lobby—but only from those which spend in excess of \$5,000 per calendar quarter. Therefore, the respondent group affected would be organizations which lobby—as opposed to individuals. Applying the dollar threshold then narrows the respondent group to organizations which spend in excess of \$5,000 per quarter for lobbying.

In our work, we attempted to apply the comparison principle to develop an estimate of the number of organizations which would be affected. As anticipated, some information existed on the number of organizations that might be affected by the bill's disclosure requirements. For example, legislation exists—the Federal Regulation of Lobbying Act—which requires organizations and individuals whose principal purpose is lobbying to register and report. By contacting the Office of the Clerk in the House, which administers the lobbying disclosure legislation, we learned that about 3,000 individuals and organizations currently register and report on their lobbying activities.

However, comparing the proposed new legislation with the existing law showed that substantially more than 3,000 organizations would probably have to register and report under the proposed legislation. Because no data was available on organizations' dollar expenditures for lobbying or on organizations which lobby but are not required to register, we were unable to

Checklist Number of Potential Respondents

Estimated
number of
respondents

precisely quantify the number of potential respondents. Additionally, other sources and discussions with several potential respondents verified that more precise data was not readily available. However, within the time available to us, we were able to report a range for the number of potential respondents that may be affected. This information was useful to the committee for its purpose.

The following checklist should help in identifying affected respondent groups and estimating the number of respondents in those groups. Keep in mind that a good starting point is with the administering agency or OMB. Some other possible sources are listed in appendix I.

- | | |
|--|-------|
| 1. Individuals or households | _____ |
| 2. Business firms | _____ |
| Large firms | _____ |
| Small firms | _____ |
| —retail | _____ |
| —wholesale | _____ |
| —service | _____ |
| —manufacturing | _____ |
| —distributing | _____ |
| —financial | _____ |
| —utilities | _____ |
| 3. Farms | _____ |
| 4. State and local government agencies | _____ |
| 5. Labor unions | _____ |
| 6. Cooperatives | _____ |
| 7. Charitable organizations | _____ |
| 8. Professional organizations | _____ |
| 9. Public, private, and parochial education institutions | _____ |

	Estimated number of respondents
10. Religious organizations	_____
11. Trade associations	_____
12. Public interest groups, such as environmental and consumer	_____
13. Legal, government, public administration, and military	_____
14. Scientific, engineering, or technical groups	_____
15. Cultural groups	_____
16. Health and medical organizations	_____
17. Fraternal organizations	_____
18. Veteran, hereditary, and patriotic groups	_____
19. Hobby and avocational organizations	_____
20. Federal Government agencies	_____

Estimating Paperwork Burden— Guidelines and Checklist

Once the paperwork requirements and potential respondent groups have been identified, the next step is to contact sources to obtain estimates of respondents’ time and costs to comply with the paperwork requirements. Useful sources may include agency officials, individual potential respondents, trade associations, labor unions, educational associations, and so on.

Government paperwork costs should be considered also. Although the Congressional Budget Office provides Government cost estimates for implementing proposed legislation, these estimates do not normally specifically identify paperwork costs. Such costs can be substantial and may be significant in considering alternative ways to achieve a given bill’s objectives.

Once again, the best starting points for developing estimates of both respondents’ paperwork burdens and related Government costs are the administering agency’s forms clearance staff and OMB’s Office of Information and Regulatory Affairs. These agencies’ files on existing paperwork requirements contain both burden estimates and estimates of Government costs, which can provide a basis for comparison with the proposed new requirements.

In turn, this information establishes the foundation for obtaining additional input on paperwork burdens and Govern-

ment costs from potential respondents and agency officials. To the extent the analyst is able to develop a tentative burden and Government cost estimate by comparison with existing requirements, the estimates provided by the other sources can be more realistically assessed.

Assume, for example, that a legislative proposal will require petroleum refining companies to provide information on how many gallons of gasoline they have produced on a monthly basis. Assume further that initial contacts with the Department of Energy's (DOE) forms clearance staff and with OMB show that a requirement exists for petroleum refiners to provide similar, but not identical, data on a quarterly basis.

The DOE and OMB files will provide a paperwork burden estimate and an estimate of Government costs for the existing requirement. Using these estimates, the analyst can now more intelligently obtain and assess information from respondents—the petroleum refiners—and other DOE program officials concerning their estimates for the new requirement. Such an assessment may be of further benefit by leading to reconsideration of the proposed monthly reporting requirement and, perhaps, using the quarterly data instead.

Judgment will inevitably have to be applied, but by adhering consistently to the principle of comparing the new proposal with what currently exists, the analyst is less likely to be overwhelmed with exaggerated claims from either potential respon-

dents or agency officials. Such claims tend to run to overstatement of both paperwork burdens and Government costs on the part of respondents, with the reverse holding true for agency officials.

Information should be obtained from respondents and agency officials on

- time and costs for a typical respondent;
- total respondent time and costs;
- any significant or abnormal effect on a particular respondent group, such as small business;
- Government paperwork costs; and
- any other factors that would have a significant effect on increasing or decreasing the paperwork costs.

Respondents and/or Government officials probably will not be able to provide documented estimates of the paperwork costs of a bill. They may be able to give some estimate of the paperwork cost of a bill as it affects their organization, but they are not likely to be able to fully document their estimate. At best, they may be able to characterize in broad terms whether particular provisions of a bill would impose minimal or heavy paperwork burdens on their organization.

The inability of organizations to quantify and fully document the paperwork burden of a bill by no means negates the usefulness of careful analysis of respondent and agency estimates

and comments. It can show where weaknesses exist in the statutory language that could cause interpretation problems with the bill's requirements, thus creating paperwork burdens that are unintended. It can point out, both from the respondents' and the Government's viewpoint, more practical and less burdensome alternatives for collecting information without compromising the objectives of the bill. It can show, in broad terms, the effects on different types of organizations and/or Government agencies. It can also disclose instances where the Government is collecting similar information. The greatest benefit is that identification of problem areas can assist a committee in designing an effective statute that minimizes or eliminates any unnecessary or unintentional paperwork burdens.

Several additional factors should be considered by the analyst when comments and paperwork burden estimates are obtained from agency officials and respondents. Perhaps most important is to keep in mind that neither respondents nor agency officials are always going to be completely objective about any given bill. Both parties may have reasons, totally separate from paperwork burden concerns, which influence their views and estimates of the likely paperwork impacts.

Because of this, it is important to contact a variety of respondents in terms of size, financial resources, nature of activity, known proponents and opponents of the bill, and so on.

The following factors should also be considered:

- Is reporting voluntary or mandatory? Voluntary reporting requirements will have a large number of nonrespondents.
- Does the bill specify the information required or must agencies promulgate rules and regulations spelling out those requirements? Some agencies, in interpreting a law, have a tendency to require more data than necessary to accomplish its objectives. Vague statutory language, combined with unlimited authority to collect information, creates a greater potential for paperwork burden than a bill that is specific in its information requirements and limits an agency's authority to require information from respondents. On the other hand, a careful analysis should be made of the bases for specific information requirements to be included in a bill because, if the requirements are enacted, the implementing agency will have no flexibility to adjust them.

- Does more than one agency administer a law? A prime example is the Employee Retirement Income Security Act. It is administered by the Departments of Labor and Treasury, and the Pension Benefit Guarantee Corporation. Other programs in areas such as education, health and safety, and civil rights are also administered by more than one agency. The more agencies involved in administering a program and establishing rules and regulations, the greater the potential for unnecessary paperwork. One of the greatest contributors to excessive paperwork is the existence of requirements on respondents to report similar information (not necessarily identical) in different formats, varying levels of detail, at different times, and on different forms about the same subject or program to more than one Federal agency.
- Is similar or identical data collected by other Federal agencies? The ability to share information among agencies—for the same or different purposes—can substantially reduce the amount of burden on respondents. The analyst should look for instances where similar or identical information can be shared by Federal agencies.

The checklist which follows has been divided into two sets of questions. Questions in group A provide a framework for obtaining respondents' paperwork burden estimates. These questions cover the basic steps involved in complying with a Federal reporting or recordkeeping requirement. Questions in group B provide a framework for estimating the Federal Government's paperwork burden costs.

Checklist Estimating Amount of Paperwork Burden

Group A

Estimating Respondents' Paperwork Burden

How much time and cost will respondents incur in:

1. Reading and understanding the requirement? _____
2. Developing and maintaining the necessary records? _____
3. Collecting and assembling the required data? _____
4. Analyzing and summarizing data in the required format? _____
5. Reporting the information to the Federal Government? _____

Examples of Specific Cost Items Which May Be Incurred in Basic Steps Identified in Group

1. Developing, installing, or modifying information systems, whether manual or automated.
2. Hiring or training personnel to collect or report the required information.

3. Hiring outside experts, such as lawyers, accountants, engineers, or others to assist in meeting or interpreting new paperwork requirements.
4. Purchasing specific supplies or materials.

Group B

Estimating Federal Government Paperwork Burdens

How much time and cost will the Federal Government incur in:

1. Designing and developing forms, questionnaires, recordkeeping requirements, etc.? _____
2. Printing, distribution, mailing? _____
3. Following up to obtain responses? _____
4. Reviewing, analyzing, summarizing information received? _____
5. Publishing and disseminating information received? _____
6. Storing and disposing of information received? _____

Evaluating Privacy Implications

Because there are over 20 Federal laws dealing with privacy, confidentiality, and freedom of information, it would be impossible to analyze the bill from each law's perspective. However, the bill can be approached from three general viewpoints. Does it

- minimize intrusiveness,
- maximize fairness, and
- create legitimate expectations of confidentiality?

The goal of minimizing intrusiveness is to limit collection of unnecessary or offensive personal information. The objective of maximizing fairness is to open up the process by which

organizations use records about individuals, to permit the individual to know what is being done with personal information, and to allow the individual to ensure its accuracy and proper use. The creation of legitimate expectations of confidentiality is an effort to give legal recognition to the personal character of records about an individual and to establish a legal and legitimate interest for the individual in what happens to those records.

The checklist will assist the analyst in making these determinations.

Checklist Personal Privacy Implications

The following questions are designed to provide a framework for determining the extent to which a bill may impact on the personal privacy of individuals. As presented in the checklist, a collection and/or sharing of personal information would increase the potential for invasion of an individual's privacy while restricting such activities would decrease that potential. Although the checklist is presented in a yes/no format, the justification for these answers should be fully presented in the impact statement. As indicated by question A, some bills will not affect individuals and, therefore, will not require completion of the checklist.

	Yes	No
A. Does the bill deal with a subject that will require the collection or disclosure of information on individuals?	___	___

(If no is checked, there is no need to continue.)

B. The bill will have an impact on personal privacy of individuals by:	___	___
--	-----	-----

- 1. Authorizing collection of personal data on individuals.
- 2. Authorizing disclosure of personal information between organizations such as Federal, State, and local governments, credit bureaus, banks, etc.
- 3. Other.

C. The types of personal information the bill addresses that would have an impact on the privacy of individuals include:

- | | | | |
|---------------|-------|--------------------|-------|
| 1. Medical | _____ | 5. Political | _____ |
| 2. Financial | _____ | 6. Law Enforcement | _____ |
| 3. Employment | _____ | 7. Educational | _____ |
| 4. Religious | _____ | 8. Other | _____ |

D. If the bill amends or supersedes other laws affecting privacy of individuals, does the bill have provisions to:

- | | Yes | No |
|--|--------------------------|--------------------------|
| 1. Allow the subject access? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Restrict disclosure to outsiders? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Safeguard the information? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Monitor the disclosures? | <input type="checkbox"/> | <input type="checkbox"/> |

E. If the bill authorizes disclosure (sharing) to other Federal, State, and local governments from sources other than the subject individual without first obtaining the written consent of the individual, does the bill:

- | | Yes | No |
|--|-----|-----|
| 1. Require that the individual be made aware that a disclosure will be made prior to such disclosure? | ___ | ___ |
| 2. Allow the individual to contest the disclosure? | ___ | ___ |
| 3. Require that the individual be made aware of the disclosure subsequent to disclosure? | ___ | ___ |
| F. If the bill provides for collection of personal information from individuals, is it: | ___ | ___ |
| 1. For the benefit of the individual; e.g., assistance program, education program, etc.? | ___ | ___ |
| 2. For the benefit of a Federal, State, or local government; e.g., census, etc.? | ___ | ___ |

Technological advances, growth in government programs, and pressures to reduce paperwork while improving public service often may require actions which have an impact on individual privacy. Therefore, a compromise which achieves a reasonable balance between individual privacy and agency efficiency concerns is in order. Moreover, the analyst should ask for what purpose is the Government collecting this information, particularly in sensitive subjects such as religious and political areas. The following questions are designed to help assess this balance.

- | | | |
|---|-----|-----|
| 1. Do the benefits from individuals providing personal data: | | |
| A. Outweigh the privacy impact? | ___ | ___ |
| B. Not outweigh the privacy impact? | ___ | ___ |
| 2. Does the purpose for which disclosures from sources other than the individual to Federal, State, or local governments: | | |
| A. Outweigh the privacy impact? | ___ | ___ |
| B. Not outweigh the privacy impact? | ___ | ___ |

Analyzing the Data and Formulating Impact Statements

Now the hard part begins. At this point, the analyst should have information available on the following five questions:

- Which provisions in the proposed legislation require paperwork?
- Whom do those provisions affect?
- How many respondents will have to provide information or keep records?
- What will the burden of compliance be in terms of time or dollar costs?
- What, if any, privacy implications exist?

Assembling and summarizing the information around these points will usually serve to indicate whether a bill will result in major incremental paperwork burdens or relatively minor burdens. Similarly, it should indicate if significant privacy implications exist.

In many cases, however, summarizing the information available from the prior steps may do little more than raise further questions. If this is the result, we believe it suggests the possibility of the need to reassess the provisions of the bill as they affect paperwork and privacy implications.

Presenting the Impact Analysis

There is no “right way” to present the analysis, although, as indicated above, we believe the data available can be usefully summarized around the basic questions drawn from the Senate rule. In any event, a section-by-section analysis, using the checklists provided, is always a useful interim step. It is generally easier for committees to revise bill language if the comments are organized in the same format as the bill. Furthermore, if the impact analysis is performed in the earliest stages of legislation, recommendations could be made concerning less burdensome methods of data collection and privacy intrusions. The committees then could make more informed decisions as to paperwork requirements and personal privacy protections.

The following checklist outlines a basic framework to consider in presenting the impact analysis. We have found it useful in our efforts in assisting Senate committees in preparing Rule 26.11(b) impact statements.

Suggested Framework for Paperwork and Privacy Impact Statement

- I.
 - A. List stated provisions in bill that have explicit paperwork implications.
 - B. List and discuss provisions that have indirect or hidden paperwork implications (including other rules, laws, regulations not stated in bill).
 - C. List type and number of respondents.
 - D. Discuss amount of paperwork burden (reporting and recordkeeping).
 - 1) Quantitative data (known).
 - 2) Qualitative data (known).
 - 3) Unknown but potential paperwork impacts.
 - E. Discuss alternative methods that may reduce paperwork—such as availability of information from other sources.
 - F. Discuss overall assessment of and conclusions on bill's paperwork impact.
- II.
 - A. List provisions that require collection of personal information from individuals.
 1. Be sure that the bill has **no** paperwork or privacy implications before saying so.
 - B. Discuss the impact on the personal privacy of individuals.
 - C. Discuss whether there are alternative methods of collecting the personal information.
 - D. Provide overall assessment of and conclusions on impact on personal privacy of individuals.

Preparing the Impact Statement

Checklist of Do's and Don'ts

GAO has reviewed several hundred regulatory impact statements prepared by Senate Committees during the 96th Congress. There have been a few impressive successes as well as some glaring weaknesses. On the basis of our observations of the best and worst, we have prepared a simple list of do's and don'ts that may help the analyst, whether it be a committee staffer or an interested member of the public, to produce a better impact evaluation.

Do's

1. Be sure that the bill has **no** paperwork or privacy implications before saying so.

2. List specific provisions in the bill that have paperwork and/or privacy implications.
3. Attempt to quantify these explicit paperwork and/or privacy provisions. If not possible, attempt to describe these impacts in subjective terms such as insignificant, minimal, substantial, etc. Demonstrate the reasons for any subjective judgments.
4. Identify hidden or implicit paperwork/privacy impacts. Discuss and/or cite examples of how these could occur and potentially what impact they could have.
5. Identify potential respondent groups and be reasonably specific as to the quantity affected. Identify whether any respondent group, such as small business, would be particularly affected.
6. Identify areas where respondents may be reporting or keeping similar or identical information under a different federal-ly imposed reporting or recordkeeping requirement.
7. Suggest alternative methods of reporting and recordkeeping that might reduce or eliminate unnecessary and burdensome paperwork requirements.

Don'ts

1. State that compliance with the rule is impracticable for reasons of expediency. This alternative is used too frequently without justification. The rule requires reasons why compliance is impracticable.
2. State opinions without justifying the basis for such.
3. Be over simplistic or vague when it is obvious that the paperwork and privacy impacts can be addressed.
4. Assume that paperwork burdens or privacy intrusions are justifiable. For example, one report stated that "the paperwork would be welcome by the States because the program would provide more grant money."
5. Use perfunctory or superficial statements such as "the bill will have no regulatory impact" without demonstrating these opinions. Most bills have paperwork and sometimes privacy implications though they may be insignificant.

Some Major Information Sources

1. **Business Advisory Council on Federal Reports.** An association, representing the business community, structured to work with Government to minimize paperwork and assure meaningful reporting programs, through early comments on agencies' proposed forms and testimony before congressional committees. The Council is an excellent source of information on Federal paperwork requirements affecting business. Contact: (202-331-1915)
2. **Congressional Budget Office (CBO).** The CBO provides the Congress with basic budget data and with analysis of alternative fiscal, budgetary, and programmatic policy. CBO has specific responsibility for (1) periodic forecasts and analyses of economic trends and alternative fiscal policies, (2) monitoring the results of congressional action on individual authorization, appropriation, and revenue bills against congressionally established targets or ceilings, (3) developing 5-year cost estimates for carrying out any public bill or resolution reported by congressional committees, (4) providing an annual report on the budget, and (5) special studies as requested by congressional committees. Contact: (292-225-1491)
3. **Congressional Research Service (CRS).** An organization that provides analytical and consultative services to congressional members and committees, assisting them in the analysis, appraisal, and evaluation of any subject matter of legislative concern. Research services are also provided to assist the Congress with its oversight, representative, and other responsibilities. Support comes in the form of background studies, in-depth policy analysis, consultations and briefings, legal research, continuous liaison with committees, outside contracts, assistance with committee hearings, public policy seminars for members and congressional staff, and related data and materials. CRS has done a number of studies related to paperwork and privacy issues. Contact: (202-287-7064)
4. **Executive Office of the President, Office of Information And Regulatory Affairs, Office of Management and Budget.** Responsible for carrying out the Paperwork Reduction Act of 1980 initiatives to reduce paperwork and improve Federal information policymaking. Conducts the reporting and recordkeeping clearance reviews for public use forms proposed by executive branch departments and agencies, and independent regulatory agencies with a view to reducing the cost to the Government for obtaining information and to minimize the burden upon business enterprises and other persons who furnish the information. This Office is the principal repository of paperwork burden estimates. Contact: (202-395-6880)
5. **Office of Technology Assessment (OTA).** OTA was created in January 1974 to help the Congress anticipate and plan for the consequences of uses of technology. The

Office provides an independent and objective source of information about the impacts—both beneficial and adverse—of technological applications and identifies policy alternatives for technology-related issues. On June 1, 1979, the Office issued a staff paper entitled “Anticipating the Impacts of Legislation—Implementing Senate Rule 29.5 Requiring Regulatory Impact Statements” which deals with economic, privacy, and paperwork issues in legislation. Contact: (202-224-8711)

6. **Small Business Administration (SBA). The Office of the Chief Counsel for Advocacy.** The Office issued a series of publications and reports distributed at the 1980 White House Conference on Small Business as a part of the SBA’s Office of the Chief Counsel for Advocacy’s Paperwork Reduction Project. In its Paperwork Reduction Project, SBA measured the amount of paperwork that Government imposes on over 300 industries primarily composed of small firms. SBA identified what forms must be prepared and records kept, and estimated the cost to both industry and the firm.

SBA also published a series of reports on problems faced by small businesses. They include:

- “The Regulatory and Paperwork Maze: A guide for Small Business.”
- “The Regulatory and Paperwork Maze: A guide for Association Executives.”

- “The Regulatory and Paperwork Maze: A guide for Government Personnel.”

Contact: U.S. Small Business Administration,
Office of the Chief Counsel for Advocacy,
1441 L Street N.W., Washington, D.C. 20416
(202-653-6717) For copies of reports (202-653-6094)

7. **Chamber of Commerce of the United States.** A national federation of organizations of business and professional people and companies. Membership includes 3,800 chambers of commerce and trade associations, and over 77,000 business firms. The National Chamber determines and makes known to the Government and to the public the recommendations of the business community on national issues and problems affecting the economy and the future of the country. The Chamber and its membership have participated extensively in efforts related to Federal paperwork reduction. Its broad membership enables it to provide useful information on paperwork burdens across the spectrum of American business. Contact: (202-659-6000)

Recent Legislative and Executive Branch Initiatives To Improve the Management of Information Resources

Appendix II

Paperwork Reduction Act of 1980: Pub. L. No. 96-511, 94 Stat. 2812, December 11, 1980

The law establishes an Office of Information and Regulatory Affairs in the Office of Management and Budget. Among other significant provisions, it (1) repeals all exemptions to the Federal Reports Act and gives OMB authority to review all reporting and recordkeeping requirements and requests imposed by Executive Branch agencies, including the independent regulatory agencies, (2) clarifies the definition of reporting burden to include cost to the public as well as time required to comply, (3) requires establishment of a Federal Information Locator System to help reduce duplication, (4) imposes requirements to expedite the OMB approval process, (5) imposes requirements to strengthen agency oversight in the information collection area, and (6) includes a number of other provisions designed to better control Federal information collection activities.

Regulatory Flexibility Act: Pub. L. No. 96-354, 94 Stat. 1164, September 19, 1980

The purpose of the act is to encourage Federal agencies to utilize innovative administrative procedures in dealing with individuals, small businesses, small organizations, and small governmental bodies that would otherwise be unnecessarily adversely affected by Federal regulations.

It requires agencies to:

- Publish, semi-annually, an agenda describing any rule that the agency expects to prepare or promulgate which is likely to have a significant economic impact on a substantial number of small entities.
- Prepare and make available for public comment an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities.

With respect to paperwork and reporting issues, this initial analysis is to include:

- A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and alternatives, such as
 - (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
 - (b) the clarification, consolidation, or simplification of compliance and reporting requirements for such entities.

When an agency promulgates a final rule, it must publish a final regulatory flexibility analysis which summarizes, explains, and justifies the actions taken during the rulemaking process. The analyses prepared under this act relate to the regulatory process; however, as time passes, they should provide an extremely useful data base for use in the *legislative* process as well.

**Information Collection Budget Program
(Established June 19, 1980)**

The information collection budget program is administered by OMB's Office of Information and Regulatory Affairs. The program requires executive branch agencies to prepare an annual paperwork budget, i.e., an estimate of the total number of hours required by the public to comply with requests for information. The budget itemizes each form used, describes its purpose, and identifies those affected by it. The principal objective of the program is to treat information as a limited resource and budget and account for it like fiscal resources. OMB requires agencies to submit information collection proposals expressed in burden hours. After considering these proposals and providing agencies an opportunity for appeal, OMB approves for each agency an allowance (ceiling) of the total amount of reporting and recordkeeping burden it may impose on the public for each fiscal year. Data from any agency's information collection budget is readily available from OMB.

**Federal Regulation—Executive Order 12291,
February 17, 1981, 46 Fed. Reg. 13193**

This Executive Order requires, among other things, that executive agencies prepare Regulatory Impact Analyses for major proposed rules as well as for existing major rules. These analyses are to be designed to permit an assessment of the potential costs and benefits of each major regulatory proposal. Although paperwork burdens are not specifically addressed in the Executive Order, presumably they will be considered in preparing the required analyses. To the extent this is the case, these analyses—similar to those required by the Regulatory Flexibility Act—should ultimately prove helpful in preparing the paperwork impact statements required by Senate Rule 26.11(b).

